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UNCLAS SECTION 01 OF 02 ROME 001528

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SUBJECT: HEAD OF ITALIAN PRIVACY AUTHORITY CRITICAL OF  
PNR AGREEMENT AND CONCERNED ABOUT SAFE HARBOR APPLICATION

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PAGE 02 ROME 01528 01 OF 02 100607Z  
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[1](#)1. (U) THIS CABLE CONTAINS AN ACTION REQUEST - SEE  
PARAGRAPH 7.

[1](#)2. (SBU) SUMMARY: DURING A MARCH 26 CONFERENCE HOSTED BY  
THE ITALIAN PRIVACY AUTHORITY, CHAIRMAN STEFANO RODOTA  
AND SECRETARY GENERAL GIOVANNI BUTTARELLI EXPRESSED  
SERIOUS CONCERN REGARDING CONTINUED U.S.-EU DIVERGENCE IN  
PRIVACY PROTECTION. PASSENGER NAME RECORD (PNR) AND SAFE  
HARBOR WERE SINGLED OUT AS MATTERS OF PARTICULAR CONCERN.  
RODOTA AND BUTTARELLI ALSO CRITICIZED THE EU COMMISSION  
FOR APPROVING THE PNR AGREEMENT WITHOUT ADEQUATE  
CONSULTATION WITH EU PRIVACY AUTHORITIES AND POLITICAL  
LEVEL OFFICIALS. IN A SEPARATE PRIVATE CONVERSATION WITH  
ECON, SECRETARY GENERAL BUTTARELLI ALSO EXPRESSED HIS  
DISAPPOINTMENT REGARDING THE PERCEIVED LACK OF FOLLOW-UP  
BY THE USG TO A MARCH 2002 EU PRIVACY VISIT (LED BY  
ITALY) TO THE U.S. END SUMMARY.

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EU-U.S. AT ODDS ON PRIVACY PROTECTION AFTER SEPTEMBER 11  
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[1](#)3. (SBU) AT A MARCH 26 CONFERENCE HOSTED BY THE ITALIAN  
PRIVACY AUTHORITY, CHAIRMAN STEFANO RODOTA (WHO ALSO  
HEADS THE EU ARTICLE 29 PRIVACY AUTHORITIES' WORKING  
GROUP) UNDERScoreD THAT TRADITIONALLY THE EU AND THE U.S.  
HAVE TAKEN A DIFFERENT APPROACHES TOWARDS PRIVACY  
PROTECTION. HOWEVER, FOLLOWING SEPTEMBER 11TH, U.S.  
UNCLASSIFIED

PAGE 03 ROME 01528 01 OF 02 100607Z  
"DEMANDS" TO ACCESS PERSONAL INFORMATION, "ALTHOUGH BASED  
ON UNDERSTANDABLE SECURITY CONCERNS", ARE NOW AT COMPLETE  
ODDS WITH ROOTED EU PRIVACY BELIEFS, HE ARGUED. HE USED  
PNR AS THE CASE STUDY EXAMPLE IN WHICH U.S. AND EU  
POSITIONS DIVERGE COMPLETELY. RODOTA BELIEVES THE PNR  
AGREEMENT NEEDS A THOROUGH REVIEW, AND EXPRESSED HOPE  
THAT A COMPROMISE SOLUTION MIGHT BE FOUND ON PNR IN ORDER  
TO AVOID A U.S.-EU "PRIVACY CRISIS."

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COMMISSION LACKS PRIVACY CULTURE  
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[1](#)4. (SBU) RODOTA AND BUTTARELLI WERE ALSO CRITICAL OF THE  
EU "BUREAUCRATS" WHO SIGNED THE ORIGINAL PNR AGREEMENT  
WITH THE U.S. RODOTA MAINTAINED THAT SUCH "BUREAUCRATS"  
STILL DO NOT APPRECIATE PRIVACY CONCERNS SUFFICIENTLY.  
BUTTARELLI SEPARATELY TOLD US THAT COMMISSION OFFICIALS  
PROCEEDED WITHOUT ADEQUATE CONSULTATIONS WITH PRIVACY  
AUTHORITIES, NOR DID THEY COORDINATE AT THE POLITICAL  
LEVEL. HE INDICATED THAT EU COMMISSION OFFICIALS MADE A  
HUGE MISTAKE. "SOME OF THOSE RESPONSIBLE HAVE ALREADY  
BEEN REASSIGNED," HE SAID, SINCE THE AGREEMENT VIOLATES  
NATIONAL PRIVACY LAWS AND IS ILLEGAL AND INAPPLICABLE.  
PROOF, PER BUTTARELLI, IS THE RECENT OVERWHELMING  
MAJORITY VOTE IN THE EU PARLIAMENT CALLING FOR REVISION  
OF THE PNR AGREEMENT. "WE ARE NEGOTIATING NOW WHAT SHOULD  
HAVE BEEN NEGOTIATED SIX MONTHS AGO" BUTTARELLI SAID.

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SAFE HARBOR - "WE WANT INFORMATION"  
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PAGE 04 ROME 01528 01 OF 02 100607Z  
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[1](#)5. (SBU) REGARDING SAFE HARBOR, WHILE EXPRESSING SOME  
SATISFACTION WITH HOW IT IS FUNCTIONING, RODOTA AND  
BUTTARELLI ALSO ARGUED THAT SAFE HARBOR NEEDS TO BE  
COMPLEMENTED BY CONTRACTUAL PROTECTION AGREEMENTS. RODOTA

INDICATED THAT THE UPCOMING SAFE HARBOR REVIEW WILL BE KEY IN ASSESSING ITS SUCCESS AND CONTINUATION.

16. (SBU) IN OUR SEPARATE CONVERSATION, BUTTARELLI ALSO EXPRESSED HIS DISAPPOINTMENT REGARDING LACK OF FOLLOW-UP TO A MARCH 2002 RODOTA-LED EU PRIVACY DELEGATION TO THE U.S. HE DESCRIBED THE VISIT AS VERY PROMISING AND NOTED THAT OPEN DIALOGUE HAD BEEN ESTABLISHED. HOWEVER, ACCORDING TO BUTTARELLI, NOTWITHSTANDING TWO LETTERS SENT BY RODOTA (ONE IN JULY 2002 AND A SECOND IN EARLY 2003) REQUESTING FOLLOW-UP INFORMATION, U.S. AGENCIES SUCH AS FTC, DEPARTMENT OF TRANSPORTATION, DEPARTMENT OF COMMERCE, AND PRIVATE BB-ONLINE HAVE YET TO RESPOND.

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PAGE 01 ROME 01528 02 OF 02 100607Z  
ACTION EUR-00

INFO LOG-00 CIP-00 EB-00 UTED-00 FTC-01 TEDE-00 STR-00  
TEST-00 USPS-01 SAS-00 /002W  
-----53665A 100608Z /32

R 100540Z APR 03  
FM AMEMBASSY ROME  
TO SECSTATE WASHDC 9190  
INFO DEPT OF COMMERCE WASHDC  
DEPT OF TRANSPORTATION WASHDC  
EU MEMBER STATES COLLECTIVE  
AMCONSUL MILAN  
AMCONSUL FLORENCE  
AMCONSUL NAPLES

UNCLAS SECTION 02 OF 02 ROME 001528

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PAGE 02 ROME 01528 02 OF 02 100607Z  
BUTTARELLI MAINTAINS THAT SUCH FOLLOW-UP INFORMATION IS KEY TO THE ASSESSMENT AND IMPROVEMENT OF THE SAFE HARBOR AGREEMENT. WHILE ACKNOWLEDGING THAT MORE AND MORE COMPANIES ARE ADHERING TO SAFE HARBOR, BUTTARELLI SEES THIS SYSTEM AS STILL THIN AND NEEDING IMPROVEMENT/REVISION. HE INDICATED THAT COMMERCE UNDER SECRETARY GRANT ALDONAS HAS PROPOSED A VIDEO CONFERENCE

SIPDIS

IN MAY BUT, THAT WHILE THIS IS WELCOME, HE VIEWS IT AS INSUFFICIENT. BUTTARELLI ALSO UNDERScored RODOTA'S PERSONAL DISAPPOINTMENT THAT THE LETTERS HE HAD SIGNED PERSONALLY HAD RECEIVED NO RESPONSE.

17. (SBU) ACTION REQUESTED: WE WOULD APPRECIATE DEPARTMENT UPDATING EMBASSY REGARDING REVIEW AND POSSIBLE RESPONSE TO RODOTA'S LETTERS. RODOTA IS HIGHLY INFLUENTIAL WITHIN THE GOI AND AMONG PRIVACY OFFICIALS EU-WIDE. HE IS ALSO A CLOSE CONTACT OF THE EMBASSY. RODOTA IS EXPECTED TO PLAY AN INFLUENTIAL ROLE ON PRIVACY-RELATED ISSUES DURING ITALY'S UPCOMING EU PRESIDENCY.

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EU "WHITE LIST" GROWING BUT SOME CONCERN IN-HOUSE  
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18. (SBU) RODOTA AND BUTTARELLI EXPRESSED SATISFACTION THAT THE COUNTRIES ON THE EU'S PRIVACY WHITE LIST (I.E., THOSE COUNTRIES WHICH ARE MOVING TOWARDS A EUROPEAN STANDARD OF REGULATED PRIVACY PROTECTION) IS RAPIDLY EXPANDING "TO ALSO INCLUDE CANADA AND SOME AFRICAN STATES." ON THE OTHER HAND, SOME CONCERN EXISTS WITH THE "SOMEWHAT LESS THAN SATISFACTORY" COORDINATION/ATTENTION  
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PAGE 03 ROME 01528 02 OF 02 100607Z  
WITHIN THE EU AND WITH THE EU COMMISSION ON PRIVACY ISSUES. NATIONAL IMPLEMENTATION OF THE EU PRIVACY DIRECTIVE VARIES CONSIDERABLY AMONG MEMBER STATES. SOME NATIONAL LAWS, RODOTA ARGUED, ARE TOO PERMISSIVE AND POTENTIALLY COULD DRIVE EU PRIVACY PROTECTION STANDARDS DOWNWARDS. (NOTE: THE LATTER POINT REGARDING PRIVACY COORDINATION AND PROTECTION LEVELS AMONG MEMBER STATES

WAS LARGELY PLAYED DOWN BY BUTTARELLI IN OUR PRIVATE CONVERSATION. HOWEVER, HE DID CONFIRM THAT PRIVACY LAWS VARY - AND WITH THEM LEVELS OF PRIVACY PROTECTION - AMONG EU COUNTRIES).

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COMMENT  
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19. (SBU) WHILE ITALIAN PRIVACY COMMISSION AUTHORITIES HAVE FREQUENTLY CRITICIZED U.S. STANDARDS OF PRIVACY PROTECTION, THEIR DIRECT CRITICISM OF EU COMMISSION "BUREAUCRATS" WHO DO NOT HAVE A "PRIVACY CULTURE" IS UNUSUAL. THEY CLEARLY VIEW THE DIFFERENT APPROACH TAKEN BY MEMBER STATES REGARDING PRIVACY PROTECTION AS A THREAT TO THE HIGH LEVEL OF PRIVACY PROTECTION TO WHICH RODOTA AND BUTTARELLI ASPIRE. WE CAN EXPECT THAT THE PRIVACY COMMISSION WILL TRY TO USE ITALY'S UPCOMING EU PRESIDENCY TO PRESS OTHER MEMBER STATES TO GET ON BOARD WITH THE HIGHEST LEVELS OF PRIVACY PROTECTION.

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PAGE 04 ROME 01528 02 OF 02 100607Z

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